IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.GIRI

THURSDAY, THE 29TH NOVEMBER 2007 / 8TH AGRAHAYANA 1929

WP(C).No. 26787 of 2004(L)

PETITIONER:

RAVINDRANATHAN, AGED 38 YEARS,
S/O. GOPI, ERANEZHATH VENGALI HOUSE,
PEELINGOTTUKARA VADAKKUMMURI, THRISSUR.

BY ADV. SRI.RENJITH THAMPAN

RESPONDENTS:
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1. THE DISTRICT COLLECTOR, THRISSUR.

2. TAHSILDAR, TALUK OFFICE, CHAVAKKAD.

3. THE REVENUE DIVISIONAL OFFICESR,
THRISSUR.

4. COMMISSIONER LAND REVENUE,
DEPARATMENT OF REVENUE, STATE OF KERALA,
THIRUVANANTHAPURAM.

***5. M.S. SUBRAMANIAN, AGED 64 YRS,**
S/O. SANKARAN, MELVEETTIL HOUSE,
P.O. VADAKKUMMURI, CHAMMAPPILLY,
THRISSUR DIST.

***ADDL. R5 IS IMPLEADED AS PER ORDER DATED**
29/10/2004 IN IA NO. 14595/2004.

****6. TRICOTT MILLS LTD., NATTIKA,
THRISSUR.**

****ADDL. R6 IS IMPLEADED AS PER ORDER
IN IA NO. 9915/2005.**

**BY GOVERNMENT PLEADER SRI. MATHEW GEORGE VADAKKEL
ADVS. SRI.V.M.KRISHNAKUMAR --- R5
SRI.M.P.ASHOK KUMAR -- R6**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 29/11/2007, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

WP(C) NO: 26787/2004 L

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1. COPY OF THE RECEIPT ISSUED BY THE TAHSILDAR CHAVAKKAD DT. 18/09/02.

EXT.P2. COPY OF THE JUDGMENT IN WPC NO. 24743/03 DT. 26/8/03.

EXT.P3. COPY OF THE PROCEEDINGS OF THE RDO DT. 1/10/03.

EXT.P4. COPY OF THE APPEAL DT. 16/12/03 FILED BY THE PETITIONER BEFORE THE R4.

EXT.P5. COPY OF THE ORDER DT. 19/06/04 OF THE R4.

RESPONDENT'S EXHIBITS **NIL.**

True copy

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V.GIRI, J.

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W.P.(C)No. 26787 of 2004

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Dated this the 29th day of November 2007

JUDGMENT

The petitioner bid in auction 10 cents of property in a revenue sale which was held on 18.9.2002. He quoted an amount of Rs. 3 lakhs which was accepted by the Sale Officer. He deposited the entire amount within the time prescribed. Apparently, at that time it was noticed by the Revenue Divisional Officer that the property had not been attached under Section 36 of the Revenue Recovery Act, that this constitutes a material irregularity. Sale was therefore set aside. In doing so, the petitioner was not heard. Petitioner challenged Ext.P3 order passed by the RDO in a representation filed before the Commissioner of Land Revenue. A specific ground taken in Ext.P4 is the absence of a prior notice and an opportunity of hearing. This does not seem to have been considered by the Commissioner while passing Ext.P5 order. Exts.P3 and P5 are under challenge.

2. I do not propose to go into the merits of the contentions raised by the petitioner as regards the correctness of

the order passed by the RDO. Suffice it to say, the petitioner was definitely entitled to a notice and an opportunity of hearing, if the RDO proposed to set aside the sale under Section 54 of the Revenue Recovery Act. That has not been done in the present case and an objection regarding absence of pre-decisional opportunity of hearing, though taken up in Ext.P4, has not been dealt with in Ext.P5.

3. The original owner of the property M/s Tricott Mills has filed an application for getting themselves impleaded as I.A.13520/2005. In Paragraph-4 of the affidavit of the said application, it is stated that the Company be allowed to pay the entire amounts due to Sri.Subramanian by way of gratuity amount. It seems that the revenue sale itself was held for realising the said amount. In my view, this is also an aspect which merits consideration by the RDO.

4. For all these reasons, I am of the view that RDO should re-consider the matter. Accordingly, Exts.P3 and P5 are set aside. The third respondent shall issue notice to the petitioner containing the grounds on which he proposes to set aside the sale within a period of one month from the date of receipt of a copy of this judgment. On receipt of the notice, petitioner shall

file objections and an order shall be passed by the RDO after hearing the petitioner as also M/s Tricott Mills, the original owner of the property. To enable the RDO to issue notice to the Tricott Mills, Sri.Asok Kumar, learned counsel for the Company submits that the present address of the Company shall be intimated to the RDO. Submission is recorded.

The writ petition is disposed of as above.

V.GIRI, JUDGE

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